

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PEDRO CURIEL-HERRERA,

Petitioner,

vs.

ERIC HOLDER, et al.,

Respondents.

Case No. 2:14-cv-01248-GMN-NJK

ORDER

Petitioner has submitted a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 (#1) and an emergency motion for stay of removal (#2). Petitioner argues that immigration officials have not complied with the requirements of 8 C.F.R. § 241.8, which sets for the procedures for reinstatement of an order of removal, because he was not given a written notice of the reinstatement of his order of removal and because he was not given an interview to assert his claim of asylum. Exhibit 1 to the petition indicates that petitioner previously was ordered removed from the United States.¹

This court does not have jurisdiction to consider the habeas corpus petition. A reinstatement order “qualifies as an order of removal that can only be challenged in a petition for review filed directly with [the court of appeals].” Morales-Izquierdo v. Department of Homeland Sec., 600 F.3d 1076, 1081-82 (9th Cir. 2010) (citing 8 U.S.C. § 1252(a)(5)). Furthermore, “any ‘questions of law and fact’ arising from an order of removal must be raised in a petition for review of that order.” Id. (quoting 8 U.S.C. § 1252(b)(9)). This court will transfer the action to the court of appeals pursuant to 28 U.S.C. § 1631.

The court will take no action upon the emergency motion for stay of removal (#2) because it lacks jurisdiction over the subject matter of this action.

¹Petitioner does not allege the circumstances of the order in the petition, and he has not attached a copy of the order to the petition.


1 **IT IS THEREFORE ORDERED** that, pursuant to 28 U.S.C. § 1631, this action is
2 **TRANSFERRED** to the United States Court of Appeals for the Ninth Circuit.

3 **IT IS FURTHER ORDERED** that the Clerk of the Court shall transmit the entire
4 case file to the court of appeals simultaneous with this transfer order, consistent with current
5 practice regarding transmission of case files to the court of appeals under CM/ECF.

6 **IT IS FURTHER ORDERED** that no action will be taken by this court on the
7 emergency motion for stay of removal (#2).

8 **IT IS FURTHER ORDERED** that the clerk of the court shall administratively close
9 this action.

10 **DATED** this 8th day of August, 2014.



Gloria M. Navarro, Chief Judge
United States District Court